

# Jason Pobjoy

*“He has a very diverse practice, he is a very nice team player and he is phenomenally bright.”*

– CHAMBERS AND PARTNERS, 2022

Year of call: **2012**  
Degree: **LLB (Dist.), BA and LLM (University of Melbourne); BCL (Dist.) (Oxon); PhD (Cantab)**



Jason practises across all of Chambers' main areas of work, with particular expertise in public and human rights law, public international law, EU & competition law, media and data protection law, commercial law and sanctions. He is ranked as a leading junior in eight practice areas in the leading independent legal directories. Recent comments include: "He has an extraordinary legal mind [and] is also a very affable and supportive team player" (Legal 500 2021); "Jason is an absolute delight to instruct. He is extremely meticulous, client-friendly, and has an exceptional knowledge of EU and public law. He thoroughly deserves the outstanding reputation that he has gained over the years" (Legal 500 2021); "His writing is among the best I've seen at the Bar" (Chambers 2020); "a real team player" (Chambers 2019); "He is a star who will rise to the very top. He is outstanding in every way." (Legal 500 2018); "very efficient, responsive, always available, bright, hard-working and super-easy to work with" (Chambers 2018); "A real future star: meticulous, diligent and fantastically efficient under extreme pressure" (Legal 500 2017).

In 2018, Jason won the WorldECR's young practitioner of the year award. In 2019, Jason was shortlisted for EU and Competition Junior of the year in the Legal 500 2020 awards. In 2021, Jason was featured on The Lawyer's Hot 100 List 2021, where he was described as "one of the most sought after juniors in the business".

Jason combines a strong commercial practice with an extensive publicly funded and pro bono human rights practice, drawing on his academic expertise in this area. His clients include individuals, companies, States, current and former Heads of State and Heads of Government, UK Government Departments, international organisations and NGOs. Jason regularly appears in the highest appellate courts, including the Court of Appeal, the Supreme Court, the European Court of Human Rights, and the Court of Justice of the European Union. He has appeared before the Supreme Court on 17 occasions (with a further three cases listed to be heard in 2021), before the General Court and Court of Justice in over twenty-five cases, and before the European Court of Human Rights in ten cases. Jason has extensive advocacy experience, and regularly appears unled, including in the High Court and the General Court of the European Union.

Recent highlights of Jason's practice include:

- acting for UN Special Rapporteur on the promotion and protection of human rights and fundamental freedoms while countering terrorism in Shamima Begum citizenship appeal in Court of Appeal ([2020] 1 WLR 4267) and Supreme Court ([2021] 2 WLR 556)
- acting for Anti-Slavery International in intervention in Court of Appeal case involving standard of proof and treatment of expert evidence (MN v SSHD [2021] 1 WLR 1956)
- acting for claimant child in challenge to citizenship fees for migrant children (R (PRCBC) v SSHD [2021] EWCA Civ 193)
- acting for the Getty Museum in the European Court of Human Rights in a claim against the Government of Italy
- acting for Visa in its defence of multiple claims brought by retailers alleging that interchange fees charged on card transactions are anti-competitive, and breach Article 101 and Article 102 TFEU (Sainsbury's v Visa [2018] 4 CMLR 24 (Commercial Court); [2018] 4 CMLR 11 (Commercial Court); [2018] 5 CMLR 9 (Court of Appeal); [2020] 4 All ER 807 (Supreme Court))
- acting for Scania Trucks in its defence of multiple claims alleging a cartel in connection with the manufacture of medium and large trucks throughout Europe
- acting for Volkswagen AG in the class action arising out of what is often described as "Dieselgate"
- acting for a mother in Supreme Court appeal considering relationship between the 1951 Refugee Convention and the Hague Convention (G (A child) [2021] 2 WLR 705)
- acting for Foreign Secretary in defence of a claim brought by the parents of Harry Dunn, raising issues relating to diplomatic immunity and Article 2 ECHR
- acting for Foreign Secretary in intervention in Supreme Court in the Venezuelan gold dispute
- acting for the BBC in various public law claims, investigation and inquiries
- acting for Sheikh Mohammed bin Rashid al-Maktoum in high-profile family court proceedings
- acting for the Prime Minister in defending claim brought by the FDA challenging the Prime Minister's decision that the conduct of the Home Secretary did not breach the Ministerial Code
- advising Save the Children in relation to violations of the Convention on the Rights of Child in Myanmar, including presenting at the UN Human Rights Council
- acting for Hosni Mubarak and his family in challenging EU sanctions, resulting in the de-listing of the family in early 2021
- acting for a large number of shareholders of Banco Popular, challenging the decision of the Single Resolution Board to sell Banco Popular to Banco Santander for 1 euro in 2017

Prior to joining Chambers, Jason was an associate in the commercial litigation team at Mallesons Stephen Jaques (now King & Wood Mallesons) in Australia, where he had a broad commercial litigation practice. In addition to his experience as a commercial litigation solicitor, Jason has taught and published widely in the areas of public international law, public law and human rights, and international refugee law. He is a Research Associate at the Refugee Studies Centre at the University of Oxford. His monograph, *The Child in International Refugee Law* was published by Cambridge University Press in 2017, and was shortlisted for the triennial Inner Temple Book Prize.

Jason is a member of the Attorney General's B Panel of Counsel, the Attorney General's PIL Panel of Counsel, and the Equality & Human Rights Commission's B Panel of Counsel. In 2018 he was appointed a trustee of the AIRE Centre.

In addition to his London practice, Jason is a member of the Bar of Ireland and the Law Library of Ireland.

## EXPERIENCE

### EU & Competition

Jason has significant experience in EU and competition law matters. He has acted in over 15 cases before the CJEU and General Court in a broad range of regulatory and sanctions matters. He is presently acting in two of the largest domestic competition cases currently being litigated in the United Kingdom. He is representing Visa in defence of multiple competition damages claims alleging that multilateral interchange fees charged on use of credit and debit cards breached EU, English and Irish competition law. He is also representing Scania in its defence of multiple competition damages claims alleging a cartel in relation to the manufacture of trucks in Europe.

There is considerable overlap between Jason's EU law practice and public law and human rights practice, and Jason has particular expertise in EU law cases raising human rights issues, including, in particular, cases involving the EU Charter of Fundamental Rights and cases involving asset-freezing sanctions.

During his time as a solicitor, Jason was heavily involved for a number of years in Australia's then largest ever private cartel damages claim, acting for Cadbury Schweppes Ltd in a claim arising out of the Visy/Amcor corrugated fibreboard packaging cartel.

In 2019, Jason was shortlisted for EU and Competition Junior of the year in the Legal 500 2020 awards.

***"He is incredibly personable, hard-working and great to work with."***

— CHAMBERS AND PARTNERS, 2022

### Cases

#### **MODSAF v IMS**

Representing the Iranian Ministry of Defence in dispute concerning the enforcement of two arbitration awards made following a dispute arising out of contracts for the supply of Chieftain tanks and armoured vehicles to Iran in the 1970s. The arbitrators held that the UK owed the principal sum of 140 million pounds to the Iranian Ministry of Defence pursuant to those contracts (later revised down to 127 million pounds). The sums have not yet been paid as a result of the imposition of EU sanctions. A number of disputes have arisen, including in relation to the payment of interest during the period in which the sanctions have operated (with Dinah Rose QC).

#### **Banks Renewables Ltd v Secretary of State for Business Energy and Industry**

Representing a number of interveners in this judicial review challenge where the Claimant seeks to challenge the legality of the Secretary of State's decision to exclude most generators of onshore wind energy from participation in the third allocation round auction for the award of Contracts for Difference (with Kieron Beal QC).

#### **Izuzquiza v European Border and Coast Guard Agency**

Case T-31/18

Represented two journalists in a challenge to the European Border and Coast Guard Agency's decision to refuse to disclose information regarding border patrol ships, requested pursuant to Regulation No. 1049/2001. Appeared before the General Court unled.

## Shareholders v Single Resolution Board

T-514/18

Representing a large group of Mexican shareholders challenging the decision of the Single Resolution Board to refuse access to a range of documents, requested pursuant to Regulation No. 1049/2001, involving its decision to take resolution action in respect of Banco Popular in 2017.

## Sainsbury's v Visa Inc and ors

[2018] 4 CMLR 24 (Commercial Court); [2018] 4 CMLR 11 (Commercial Court); [2018] 5 CMLR 9 (Court of Appeal)

Representing Visa in relation to interchange fees arising out of Visa card transactions in Europe. The trial before the Commercial Court was the longest competition law trial of 2016/17, and was identified as one of the top 20 cases of 2016 (The Lawyer). This was followed by a two-week appeal in the Court of Appeal in 2018. A four-day appeal will be heard in the Supreme Court in January 2020. Jason is also representing Visa in a large number of additional claims relating to interchange fees, brought by UK and European retailers (with Dinah Rose QC and Brian Kennelly QC).

## Trucks cartel

Representing Scania in relation to UK litigation arising from the Commission's decisions relating to the alleged trucks cartel. Encompasses High Court and CAT proceedings, including prospective CPO proceedings. This is anticipated to be the largest competition litigation for 2019/2020 (with Brian Kennelly QC and Andrew Trotter).

## Shareholders v Single Resolution Board and Commission

Case T-510/17

Representing a large group of Mexican shareholders challenging the decisions of the Single Resolution Board and the European Commission to take resolution action in respect of Banco Popular in 2017. This action resulted in the sale of Banco Popular to Banco Santander for 1 euro. This is the first time that a resolution action of the Single Resolution Board has been challenged before the European Courts, and has been selected as one of four lead tests cases. The grounds of challenge include a failure to respect the shareholders' due process rights, property rights, and right to effective judicial review, and a failure to comply with the Meroni non-delegation principles.

## CMA investigation into dating services company

Advised the Competition and Markets Authority (unled) in a large-scale investigation into adult dating websites. The investigation was focused on consumer protection issues under the Consumer Protection from Unfair Trading Regulations, the Consumer Contract Regulations and the Consumer Rights Act, which arose in the context of an online dating company that offered niche dating websites.

**Drax Power Ltd and Infinis Energy Holdings Ltd v HM Treasury and HM Revenue & Customs**

[2016] 2 CMLR 33 (High Court); [2017] QB 1221 (Court of Appeal)

Represented Drax and Infinis in the High Court and Court of Appeal for renewable source energy generators in challenge to the withdrawal of tax relief with practical immediacy. It was alleged that the withdrawal violated applicable standards of EU law, including the principles of foreseeability and proportionality, and A1P1 ECHR. (with Michael Fordham QC).

**Sainsbury's Supermarkets Ltd v MasterCard Inc**

[2016] CAT 6

Represented Visa in application for access to documents that had been used in a case similar to a claim Visa was defending in the Commercial Court, in circumstances where Visa had not been a party to the CAT case (with Dinah Rose QC).

**R (BAT and others) v Secretary of State for Health**

[2016] EWHC 1169 (Admin) (High Court); [2018] QB 149 (Court of Appeal)

Represented Imperial Tobacco in its challenge to the Standardised Packaging of Tobacco Products Regulations 2015, in the High Court and Court of Appeal. The case raised issues relating to the deprivation of property, freedom of movement, and EU intellectual property law. Appeal to the Court of Appeal pending (with Dinah Rose QC and Brian Kennelly QC).

**Philip Morris Brands and others**

C-547/14, EU:C:2016:325

Represented Imperial Tobacco in its challenge to the EU's Second Tobacco Products Directive (with Dinah Rose QC and Brian Kennelly QC).

**Advising publishers**

Advised the European Publishers Council and the Professional Publishers Association as to whether the European Commission's proposal to regulate indices used as benchmarks in financial instruments and contracts was compatible with the fundamental freedoms of the press under EU law (with Michael Beloff QC, Brian Kennelly QC and James Segan).

**Public & Regulatory**

Jason is recognised as a leading public law junior. He has a wide-ranging public law practice, advising and acting for individuals, governments, regulators, large commercial entities and NGOs in the UK and in other jurisdictions, including Singapore, Hong Kong and the Cayman Islands. He appears regularly in the Administrative and Appellate Courts, and has been instructed in 12 cases before the Supreme Court. He is a member of the Attorney General's B Panel of Counsel, and the Attorney General's PIL Panel of Counsel.

***"He's fantastically bright and provides a great degree of service."***

– CHAMBERS AND PARTNERS, 2022

## Cases

### **Challenge to refugee pushback policy**

Acted for Freedom From Torture in challenge to the UK Government's refugee pushback policy on the basis that it was ultra vires, and incompatible with the 1951 Refugee Convention and Articles 3 and 4 ECHR. The Government withdrew the policy shortly before the hearing that was due to be heard before a Divisional Court in the week of 2 May, 2022.

### **Challenges to Parole Board Rules 2019**

Representing the Secretary of State for Justice in a series of cases challenging the 21-day reconsideration mechanism introduced following the Worboys case.

### **ENRC v Director of the Serious Fraud Office**

Representing ENRC in judicial review proceedings against the SFO regarding investigations into concerns of historical SFO wrongdoing, including in relation to legal professional privilege (with Mike Fordham QC, Hollie Higgins and Natasha Simonsen).

### **Banks Renewables Ltd v Secretary of State for Business Energy and Industry**

Representing a number of interveners in this judicial review challenge where the Claimant seeks to challenge the legality of the Secretary of State's decision to exclude most generators of onshore wind energy from participation in the third allocation round auction for the award of Contracts for Difference (with Kieron Beal QC).

### **Advising BBC on media, regulatory and public law issues**

Jason is regularly instructed by the BBC, led and unled, to provide advice on media, regulatory and public law issues. This include issues arising under the BBC Charter, the Framework Agreement, the Broadcasting Code, the Communications Act 2003, and the Political Parties, Elections and Referendums Act 2000. He has also advised in respect of consultations, including the over-75 licence fee consultation.

### **Keighley v BBC**

High Court

Represented the BBC in challenge brought by former BBC employee, Mr Keighley, challenging the framework that the BBC has in place to monitor compliance with its due impartiality obligations.

### **Good Thinking Society v Professional Standards Authority**

Representing the Good Thinking Society in its judicial review challenge to the Professional Standards Authority over its decision to re-accredit the Society of Homeopaths, notwithstanding the fact that some of its practitioners continue to offer CEASE therapy (a purported treatment for autism which is targeted at children) (with Hollie Higgins).

**R (Law Society) v Lord Chancellor**

[2019] 1 WLR 1649

Represented the Law Society in its judicial review of cuts made by the Lord Chancellor to criminal legal aid, which resulted in the Divisional Court quashing the Lord Chancellor's decision on the grounds of unfairness and irrationality.

**R (Wakenshaw) v Secretary of State for Justice**

[2018] EWHC 2089 (Admin)

Represented the Secretary of State for Justice defending judicial review claim alleging that the Parole Board lacks the requisite degree of independence, following the John Worboys challenge and subsequent resignation of the Parole Board Chair.

**R (Fair Vote Project) v Prime Minister**

Represented Fair Vote Project in this high-profile claim challenging the Prime Minister's refusal to set up an inquiry to investigate irregular and unlawful conduct that sought to influence the outcome of the EU Referendum.

**R (Stott) v Secretary of State for Justice**

Represented the Secretary of State for Justice in the Supreme Court, defending claim brought by a prisoner alleging that his extended determinate sentence, which mandates that he cannot be released until he is two-thirds of the custodial term, infringes Article 14 ECHR (with Sir James Eadie QC).

**R (J) v Secretary of State for the Home Department**

Represented a number of unaccompanied minors challenging the significant and ongoing delay by the SSHD in determining the claimants' individual asylum claims, and the systemic delay by the SSHD in determining asylum claims of unaccompanied children more generally. Raises issues under domestic law, EU law and public international law (in particular, under the Convention on the Rights of the Child).

**R (LW & ors) v Sodexo and Secretary of State for Justice**

[2019] 1 WLR 5654

Represented four prisoners (including one transgender prisoner) challenging strip searches that were carried out at HMP Peterborough. Sodexo conceded that the searches were unlawful. The claimants also alleged that the systemic problems in respect of supervision of strip searching constitutes a violation of the SSJ's positive obligations under Articles 3 and 8 ECHR.

Jason is also representing a number of prisoners at other prisons throughout the United Kingdom, that have been subject to similar strip searches.

**National Iranian Tanker Company v SSHD**

[2015] EWHC 282 (Admin)

Represented the National Iranian Tanker Company in an urgent judicial review permission application, including an application for interim relief, relating to the SSHD's decision to vote in favour of the redesignation of NITC. Permission for judicial review granted (with Tom de la Mare QC).



**IGas v Persons Unknown**

Represented IGas in application for interim injunction restraining persons unknown from a range of unlawful activity against fracking operators.

**Marinet Ltd v Ministry of Defence**

Advised an environmental NGO in respect of a challenge to the decision of the Ministry of Defence to refuse to designate the Goodwin Sands as an archaeological site in light of the very large number of ships and planes that went down in this area during WWII. The issue has arisen as a result of a dredging application that has been made to build a port in Devon. The dredging will have detrimental impact on marine wildlife and the large number of ships, aircraft and crew lost at sea during WWII, during the Battle of Britain.

**R (O) v Home Secretary**

[2016] 1 WLR 1717

Represented BID and Medical Justice in case concerning immigration detention of those with mental illness (with Michael Fordham QC).

**R (BAT and others) v Secretary of State for Health**

[2016] EWHC 1169 (Admin) (High Court); [2018] QB 149 (Court of Appeal)

Represented Imperial Tobacco in its challenge to the Standardised Packaging of Tobacco Products Regulations 2015, in the High Court and Court of Appeal. The case raised issues relating to the deprivation of property, freedom of movement, and EU intellectual property law. Appeal to the Court of Appeal pending (with Dinah Rose QC and Brian Kennelly QC).

**Drax Power Ltd and Infinis Energy Holdings Ltd v HM Treasury and HM Revenue & Customs**

[2016] 2 CMLR 33 (High Court); [2017] QB 1221 (Court of Appeal)

Represented Drax and Infinis in the High Court and Court of Appeal for renewable source energy generators in challenge to the withdrawal of tax relief with practical immediacy. It was alleged that the withdrawal violated applicable standards of EU law, including the principles of foreseeability and proportionality, and A1P1 ECHR. (with Michael Fordham QC).

**R (Lee) v GMC**

[2016] 4 WLR 34 (High Court); [2018] EWCA Civ 99 (Court of Appeal)

Represented an eminent surgeon from Singapore in the High Court and Court of Appeal in a challenge to disciplinary proceedings by the GMC following a finding of overcharging by the Singapore Medical Council (with Michael Fordham QC).



**R (Baker Tilly) v Financial Reporting Council**

[2015] ACD 120 (High Court); [2017] EWCA Civ 406 (Court of Appeal)

Represented the FRC in this case which concerns a challenge brought by auditors to a decision of the Executive Counsel to the FRC to deliver a formal complaint against the claimants. The FRC was successful in the High Court and Court of Appeal (with Michael Fordham QC).

**Recovery of Medical Costs for Asbestos Diseases (Wales) Bill: Reference by the Counsel**

[2015] AC 1016

Represented the Association of British Insurers in this Reference which concerned the legislative competence of the National Assembly for Wales to recover NHS charges from tortfeasors and the compatibility of such recoupment with Article 1 Protocol 1 (with Michael Fordham QC).

**R (Barbara Gordon-Jones) v Secretary of State for Justice and the Governor of HMP Send**

[2015] ACD 42

Represented the Secretary of State for Justice in this high-profile challenge to the SSJ's policy on the receipt of books in prison (with Brian Kennelly QC).

**R (Whitston) v Secretary of State for Justice**

[2015] 1 Costs LR 35

Represented the Secretary of State for Justice in this challenge to the SSJ's decision to bring the costs provisions in LASPO into force in respect of mesothelioma claims (with Shaheed Fatima QC).

**R (Barclay Brothers) v Secretary of State for Justice**

[2015] AC 276

Represented the Attorney General of Jersey and the States of Guernsey in this case which concerned the constitutional relationship between the Channel Islands and the United Kingdom (with Sir Jeffrey Jowell QC and Iain Steele).

## Civil Liberties & Human Rights

Jason has a wide-ranging public law and human rights practice, and has appeared in many of the leading human rights cases in recent years, including appearing in 12 cases before the Supreme Court. Many of Jason's cases include public international law elements. He has particular expertise in EU law cases raising human rights and public international law issues, and has particular expertise in challenging and advising on EU and international sanctions. He is currently acting for a number of individuals and entities whose assets have been frozen under EU sanctions legislation, in challenges before the General Court of the EU and the Court of Justice. Jason also regularly advises on sanctions compliance issues (see under Sanctions below).

Jason's practice is complemented by his academic experience, having taught and published widely in the areas of public law and human rights, public international law and immigration and refugee law.

***“Jason is super bright, an excellent strategist, and he gets to the heart of the detail.”***

— CHAMBERS AND PARTNERS, 2022

In addition to publicly funded work, Jason undertakes substantial pro bono work. He has acted pro bono for UNHCR, the Office of the Children's Commissioner, Bail for Immigration Detainees, Medical Justice, the AIRE Centre, ILGA-Europe, the Human Dignity Trust, the Equality Network and the International Commission of Jurists. In 2017 he was nominated for the Bar Pro Bono Unit Pro Bono Barrister of the Year.

Jason is a member of the Equality and Human Rights Commission B Panel of Counsel.

## Cases

### **Challenge to refugee pushback policy**

Acted for Freedom From Torture in challenge to the UK Government's refugee pushback policy on the basis that it was ultra vires, and incompatible with the 1951 Refugee Convention and Articles 3 and 4 ECHR. The Government withdrew the policy shortly before the hearing that was due to be heard before a Divisional Court in the week of 2 May, 2022.

### **Challenges to Parole Board Rules 2019**

Representing the Secretary of State for Justice in a series of cases challenging the 21-day reconsideration mechanism introduced following the Worboys case.

### **Acting for major art museum**

Representing a major art museum in the United States in relation to a dispute that has arisen in relation to a piece of art which is said to have been unlawfully obtained.

### **A v SSHD; O v SSHD; PRCBC v SSHD**

Representing a child claimant challenging the £1017 Home Office fee. That is charged to children to register as British citizens. The claimants allege that this has the effect of depriving children of a statutory right, is contrary to the child's best interests and infringes Article 8.

### **MS v SSHD**

Representing the AIRE Centre which has intervened in the Supreme Court in this important appeal concerning (i) the extent to which decisions of the Competent Authority may be binding on a tribunal; and (ii) the scope of the protective and investigative duties under Article 4 ECHR.

### **Advising on discriminatory arrangements for train season tickets**

Advising on a potential discrimination claim arising out of the absence of season ticket equivalents for part-time workers.

### **Grenfell Tower Inquiry: Following Grenfell**

Advising the Equality and Human Rights Commission in connection with its work monitoring the human rights and equality implications of the Grenfell Tower tragedy including, in particular, in relation to the right to life under Article 2 ECHR, the right to adequate and dignified housing, the right to non-discrimination and equality, and children's rights under the Convention on the Rights of the Child.

**RT v Ofcom**

High Court

Representing RT in a challenge to Ofcom's decisions (i) finding that RT had breached its due impartiality obligations in respect of seven programmes relating primarily to the Syrian war and the Skripal poisoning; and (ii) imposing a fine of £200,000 pounds. RT alleges that the decisions are incompatible with Article 10 ECHR or, alternatively, that the due impartiality regime is itself incompatible with Article 10. The case was heard before a Divisional Court in late-2019 and judgment is pending.

**R (Bashir) v Secretary of State for the Home Department**

[2016] 1 WLR 4613 (High Court); [2017] EWCA Civ 397 (Court of Appeal); [2018] 3 WLR 573 (Supreme Court)

Representing six families of recognised refugees residing in the UK Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus. They have been residing there since 1998. The claimants challenge the decision of the SSHD to refuse admission to the UK. The case raises a number of fundamental issues under public international law, including, in particular, whether the Refugee Convention applies to this British overseas territory. The claimants succeeded in the High Court, Court of Appeal and Supreme Court (with Raza Husain QC, Tom Hickman and Eddie Craven).

**R (LW & ors) v Sodexo and Secretary of State for Justice**

[2019] 1 WLR 5654

Represented four prisoners (including one transgender prisoner) challenging strip searches that were carried out at HMP Peterborough. Sodexo conceded that the searches were unlawful. The claimants also alleged that the systemic problems in respect of supervision of strip searching constitutes a violation of the SSJ's positive obligations under Articles 3 and 8 ECHR.

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**R (Stott) v Secretary of State for Justice**

Represented the Secretary of State for Justice in the Supreme Court, defending claim brought by a prisoner alleging that his extended determinate sentence, which mandates that he cannot be released until he is two-thirds of the custodial term, infringes Article 14 ECHR (with Sir James Eadie QC).

**R (Wakenshaw) v Secretary of State for Justice**

[2018] EWHC 2089 (Admin)

Represented the Secretary of State for Justice defending judicial review claim alleging that the Parole Board lacks the requisite degree of independence, following the John Worboys challenge and subsequent resignation of the Parole Board Chair.

**Advising Save the Children on international law issues arising out of massacre of Rohingya children in Myanmar**

Advising Save the Children on public international law issues arising out of alleged massacre of Rohingya children in Myanmar. This involved the preparation of a detailed advice on potential violations of the Convention on the Rights of the Child with Professor Guy Goodwin-Gill QC, which Jason subsequently presented on behalf of Save the Children at the UN Human Rights Council at its 38th session in July 2018.

**R (J) v Secretary of State for the Home Department**

Represented a number of unaccompanied minors challenging the significant and ongoing delay by the SSHD in determining the claimants' individual asylum claims, and the systemic delay by the SSHD in determining asylum claims of unaccompanied children more generally. Raises issues under domestic law, EU law and public international law (in particular, under the Convention on the Rights of the Child).

**Chong & ors v United Kingdom**

Application No. 29753/16

Represented the claimants in this important case before the European Court of Human Rights, following the decision of the Supreme Court in *Keyu v Secretary of State*. The case addresses whether there is a human rights obligation under ECHR and/or customary international law to undertake a further inquiry into the 1948 massacre during the Malayan Emergency (with Michael Fordham QC, Danny Friedman QC and Zach Douglas QC).

**Ineos Upstream Ltd v Persons Unknown**

[2017] EWHC 2945 (Ch)

Representing Ineos in application for interim injunction restraining persons unknown from a range of unlawful activity against fracking operators and their third party contractors. Ineos succeeded in obtaining the interim injunction before the High Court. The case raises issues relating to the scope of Articles 10 and 11 ECHR, the appropriateness of obtaining relief against persons unknown, the test for quia timet interim injunctions, and the scope of the various alleged torts/statutory offences. A Court of Appeal hearing is listed for early 2019.

**IGas v Persons Unknown**

Represented IGas in application for interim injunction restraining persons unknown from a range of unlawful activity against fracking operators.

**Kuczynski v SSHD**

Represented the claimant in this case challenging the UK's policy in relation to rough sleeping in the Upper Tribunal. The UK had passed a policy which suggests that rough sleeping in an of itself constitutes an "abuse of rights" for the purposes of Article 35 of the Citizens Rights Directive. This raised issues concerning free movement rights under the TFEU.

**C v SSWP**

[2017] 1 WLR 4127

Represented the Equality Network in its intervention in the Supreme Court in this important case involving questions as to the rights of transgender people to have information about their gender history kept private. The Equality Network submitted detailed evidence and submissions addressing the true impact that data retention policies have on the day-to-day lives of transgender people.

**SXH v Crown Prosecutions Service**

[2017] 1 WLR 1401

Represented UNHCR pro bono in the Supreme Court in this case which concerns the circumstances in which Art 8 ECHR will be engaged by a decision to prosecute a refugee for the use of false documents. The case has far-reaching implications for refugees entering the United Kingdom (with Raza Husain QC and Paul Luckhurst).

**JA (Nigeria) v Secretary of State for the Home Department**

Represented a mother and son in this important appeal before the Court of Appeal which concerns the proper approach to the definition of persecutory harm under the Refugee Convention in cases involving children. The child in this case is a 5-year albino boy, who would face widespread societal discrimination if returned to Nigeria, including a risk of ritual killing. The Secretary of State conceded the appeal before the hearing.

**ZAT and others v SSHD**

[2016] 1 WLR 4894

Represented the AIRE Centre in the Court of Appeal in this case which concerns the application of Art 8 ECHR to unaccompanied refugee children in the Calais "Jungle" (with Raza Husain QC).

**Al-Saadoon & others v Secretary of State for Defence**

[2015] 3 WLR 503 (High Court); [2015] EWHC 1769 (High Court); [2016] 1 WLR 3625 (High Court); [2017] QB 1015 (Court of Appeal)

Represented approximately 1,400 Iraqi claimants in a series of cases in the High Court and Court of Appeal which concern, inter alia, the jurisdictional reach of Art 1 ECHR and the scope of the investigative duties under Art 3 and Art 5 ECHR, and the investigative obligations under UNCAT and customary international law (with Michael Fordham QC, Danny Friedman QC and Dan Squires QC).

**R (O) v Home Secretary**

[2016] 1 WLR 1717

Represented BID and Medical Justice in case concerning immigration detention of those with mental illness (with Michael Fordham QC).

**Coventry v Lawrence**

[2015] 1 WLR 3485; ECtHR claim pending

Representing the Secretary of State for Justice before the Supreme Court in this case which concerned whether the CFA and ATE premium regime in place prior to the Jackson reforms is compatible with Article 6 and A1P1 ECHR. In addition to acting in this case in the Supreme Court, Jason is representing the United Kingdom in proceedings in the European Court of Human Rights (with Tom Weisselberg QC).

**AH (Algeria) v Secretary of State for the Home Department**

[2015] EWCA Civ 1003

Represented UNHCR in its intervention before the Court of Appeal in this case which concern the proper interpretation of Art 1F(b) of the Refugee Convention (with Michael Fordham QC and Samantha Knights).

**Akerman-Livingstone v Aster Communities Limited**

[2015] AC 1399

Represented the Equality and Human Rights Commission in its intervention before the Supreme Court in this case which concerns the test for disability discrimination in the social housing context (with Monica Carss-Frisk QC).

**Recovery of Medical Costs for Asbestos Diseases (Wales) Bill:  
Reference by the Counsel**

[2015] AC 1016

Represented the Association of British Insurers in this Reference which concerned the legislative competence of the National Assembly for Wales to recover NHS charges from tortfeasors and the compatibility of such recoupment with Article 1 Protocol 1 (with Michael Fordham QC).

**RA (a child by his litigation friend) and BF v Secretary of State for the Home Department**

Acted successfully for the Office of the Children's Commissioner before the Upper Tribunal and Court of Appeal in this challenge to the SSHD's refusal to return a 5-year old boy from Nigeria and his mentally ill mother on the basis that the SSHD did not adequately consider the child's best interests. SSHD ordered to return to the family (with Monica Carrs-Frisk QC and Kate Gallafent QC).

**Sabalić v Croatia**

Application no. 50231/13

Represented ILGA-Europe, AIRE Centre and the International Commission of Jurists in this case which concerns questions about the scope of the positive obligations to undertake effective investigation in the context of hate crimes motivated in whole or in part by an individual's real or imputed sexual orientation or gender identity.

**Public International Law**

Jason has substantial experience in the field of public international law, having taught and published extensively in these areas (for details of research and teaching, and a list of publications, see below). He has particular expertise in cases raising issues of state immunity, diplomatic immunity, international humanitarian law, international human rights law, and international refugee law. He regularly acts in cases in the domestic courts and Strasbourg raising PIL issues. He has also advised on a number of matters before the UN human rights bodies.

***“Jason is the expert and go-to junior in public international law. He has the perfect mix of academic and practical litigation so he is the total package in this area which is hard to find, as many counsel are one or the other.”***

— LEGAL 500, 2022

Jason recently appeared before the UN Human Rights Council on behalf of Save the Children, in relation to human rights violations committed against the Rohingya people in Myanmar.

Jason is a member of the Attorney General's specialist PIL Panel of Counsel, and regularly advises the UK Government on PIL-related matters.

## Cases

### **Advising on issues of State and diplomatic immunity**

Jason regularly advises individuals, the Foreign & Commonwealth Office and other government bodies on issues relating to State and diplomatic immunity.

### **Advising the UK Government on PIL liability**

Advising the Foreign & Commonwealth Office on its liability under public international law for acts that took place in a former colony.

### **R (Bashir) v Secretary of State for the Home Department**

[2016] 1 WLR 4613 (High Court); [2017] EWCA Civ 397 (Court of Appeal); [2018] 3 WLR 573 (Supreme Court)

Representing six families of recognised refugees residing in the UK Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus. They have been residing there since 1998. The claimants challenge the decision of the SSHD to refuse admission to the UK. The case raises a number of fundamental issues under public international law, including, in particular, whether the Refugee Convention applies to this British overseas territory. The claimants succeeded in the High Court, Court of Appeal and Supreme Court (with Raza Husain QC, Tom Hickman and Eddie Craven).

### **Advising Save the Children on international law issues arising out of massacre of Rohingya children in Myanmar**

Advising Save the Children on public international law issues arising out of alleged massacre of Rohingya children in Myanmar. This involved the preparation of a detailed advice on potential violations of the Convention on the Rights of the Child with Professor Guy Goodwin-Gill QC, which Jason subsequently presented on behalf of Save the Children at the UN Human Rights Council at its 38th session in July 2018.

### **Grenfell Tower Inquiry: Following Grenfell**

Advising the Equality and Human Rights Commission in connection with its work monitoring the human rights and equality implications of the Grenfell Tower tragedy including, in particular, in relation to the right to life under Article 2 ECHR, the right to adequate and dignified housing, the right to non-discrimination and equality, and children's rights under the Convention on the Rights of the Child.



**Chong & ors v United Kingdom**

Application No. 29753/16

Represented the claimants in this important case before the European Court of Human Rights, following the decision of the Supreme Court in *Keyu v Secretary of State*. The case addresses whether there is a human rights obligation under ECHR and/or customary international law to undertake a further inquiry into the 1948 massacre during the Malayan Emergency (with Michael Fordham QC, Danny Friedman QC and Zach Douglas QC).

**PIAM v Upper Brooks & ors**

CICA Appeal No. 5 of 2019

Represented investment funds, owned by the Libyan Investment Authority, in 10-day trial, and subsequently a two-day appeal, in the Cayman Islands. The case raised a number of complex issues involving the interaction between the UN, EU, UK and Cayman sanctions regimes. The central issue was whether the dismissal of directors of the investment funds constituted a breach of those regimes (with Dinah Rose QC).

**Mubarak and Others v Council**

T-275/16; T-335/18

Representing the sons of the former president of Egypt and their wives, in challenging the EU sanctions imposed on the basis of alleged crimes in Egypt, notwithstanding that no evidence has been supplied to the Council in relation to the wives, the Egyptian courts have dismissed the allegations related to the sons and their single conviction, which is nevertheless spent, as well as their ongoing proceedings, are marred by flagrant violations of Articles 6 & 7 ECHR (with Brian Kennelly QC).

**SXH v Crown Prosecutions Service**

[2017] 1 WLR 1401

Represented UNHCR pro bono in the Supreme Court in this case which concerns the circumstances in which Art 8 ECHR will be engaged by a decision to prosecute a refugee for the use of false documents. The case has far-reaching implications for refugees entering the United Kingdom (with Raza Husain QC and Paul Luckhurst).

**Hosni Mubarak v Council**

T-358/17

Representing the former president of Egypt in challenging the EU sanctions imposed on the basis of alleged crimes in Egypt, notwithstanding that the Egyptian courts have dismissed the allegations relating to him, and his single conviction, which is nevertheless spent, as well as their ongoing proceedings, is marred by flagrant violations of Articles 6 & 7 ECHR (with Brian Kennelly QC).

**Yanukovich v Council**

Advising the former President of Ukraine, Viktor Yanukovich, and his son, in challenging the EU restrictive measures imposed on them (with Shaheed Fatima QC).

### **Al-Saadoon & others v Secretary of State for Defence**

[2015] 3 WLR 503 (High Court); [2015] EWHC 1769 (High Court); [2016] 1 WLR 3625 (High Court); [2017] QB 1015 (Court of Appeal)

Represented approximately 1,400 Iraqi claimants in a series of cases in the High Court and Court of Appeal which concern, inter alia, the jurisdictional reach of Art 1 ECHR and the scope of the investigative duties under Art 3 and Art 5 ECHR, and the investigative obligations under UNCAT and customary international law (with Michael Fordham QC, Danny Friedman QC and Dan Squires QC).

### **AH (Algeria) v Secretary of State for the Home Department**

[2015] EWCA Civ 1003

Represented UNHCR in its intervention before the Court of Appeal in this case which concern the proper interpretation of Art 1F(b) of the Refugee Convention (with Michael Fordham QC and Samantha Knights).

### **Advising on a complaint to the ILO**

Advised on a complaint to the ILO (with Shaheed Fatima QC).

### **Sabalić v Croatia**

Application no. 50231/13

Represented ILGA-Europe, AIRE Centre and the International Commission of Jurists in this case which concerns questions about the scope of the positive obligations to undertake effective investigation in the context of hate crimes motivated in whole or in part by an individual's real or imputed sexual orientation or gender identity.

### **Advising on of the Constitution of the Universal Postal Union**

Advised on various provisions of the Constitution of the Universal Postal Union, the General Regulations of the Universal Postal Union and the Universal Postal Convention (with Shaheed Fatima QC).

### **Advising on the definition of "investment"**

Advised on the definition of "investment" in various Bilateral Investment Treaties, and Article 25 of the Convention on the Settlement of Investment Disputes between States and Nationals of Other States.

### **Nystrom v Australia**

Communication No. 1557/2007, CCPR/C/102/D/1557

Represented the Application in his Communication to the UN Human Rights Committee.

### **Urgent Communication to the UN Working Group on Arbitrary Detention**

Urgent Communication to the UN Working Group on Arbitrary Detention in connection with the arbitrary detention of a group of men detained in Australia in connection with suspected terrorist activities.

### **Advising an Australian citizen**

Advised an Australian citizen facing the death penalty in an overseas jurisdiction.

## **Commercial**

Jason has a wide-ranging general commercial litigation practice, building on his experience as a commercial litigation solicitor. During his time as a solicitor at Mallesons Stephen Jaques, Jason developed a broad commercial litigation practice, acting for and advising clients across a broad range of industries, including retail, telecommunications and banking and finance. Since commencing practice, Jason has acted in a wide range of commercial cases, before the English Courts and abroad. In addition to his pure commercial law work, Jason also specialises in commercial public law cases.

## **Cases**

### **Sainsbury's v Visa Inc and ors**

[2018] 4 CMLR 24 (Commercial Court); [2018] 4 CMLR 11 (Commercial Court); [2018] 5 CMLR 9 (Court of Appeal)

Representing Visa in relation to interchange fees arising out of Visa card transactions in Europe. The trial before the Commercial Court was the longest competition law trial of 2016/17, and was identified as one of the top 20 cases of 2016 (The Lawyer). This was followed by a two-week appeal in the Court of Appeal in 2018. A four-day appeal will be heard in the Supreme Court in January 2020. Jason is also representing Visa in a large number of additional claims relating to interchange fees, brought by UK and European retailers (with Dinah Rose QC and Brian Kennelly QC).

### **PIAM v Upper Brooks & ors**

CICA Appeal No. 5 of 2019

Represented investment funds, owned by the Libyan Investment Authority, in 10-day trial, and subsequently a two-day appeal, in the Cayman Islands. The case raised a number of complex issues involving the interaction between the UN, EU, UK and Cayman sanctions regimes. The central issue was whether the dismissal of directors of the investment funds constituted a breach of those regimes (with Dinah Rose QC).

### **Trucks cartel**

Representing Scania in relation to UK litigation arising from the Commission's decisions relating to the alleged trucks cartel. Encompasses High Court and CAT proceedings, including prospective CPO proceedings. This is anticipated to be the largest competition litigation for 2019/2020 (with Brian Kennelly QC and Andrew Trotter).

## Shareholders v Single Resolution Board and Commission

Case T-510/17

Representing a large group of Mexican shareholders challenging the decisions of the Single Resolution Board and the European Commission to take resolution action in respect of Banco Popular in 2017. This action resulted in the sale of Banco Popular to Banco Santander for 1 euro. This is the first time that a resolution action of the Single Resolution Board has been challenged before the European Courts, and has been selected as one of four lead tests cases. The grounds of challenge include a failure to respect the shareholders' due process rights, property rights, and right to effective judicial review, and a failure to comply with the Meroni non-delegation principles.

## Sainsbury's Supermarkets Ltd v MasterCard Inc

[2016] CAT 6

Represented Visa in application for access to documents that had been used in a case similar to a claim Visa was defending in the Commercial Court, in circumstances where Visa had not been a party to the CAT case (with Dinah Rose QC).

## SFO v Barclays

Representing the SFO in various aspects of its Barclays/Qatar prosecution (with Sir James Eadie QC).

## Restrictive covenant/breach of confidence claim

Represented an employer in an urgent interim injunction application in restrictive covenant/breach of confidence claim (with Robert Howe QC).

## Liberty Investing Ltd v Sydow

[2015] EWHC 608 (Comm)

Represented an investor in context of long-running dispute concerning payment of royalties and the enforcement of rights under various production agreements in respect of Dirty Dancing the Musical (with Andrew Hunter QC).

## Advising an employer - publication of sensitive information

Advising employer on issues arising out of publication, by an ex-employee, of highly commercially sensitive information (with Tony Peto QC).

## Archer v Sydow

Represented Lord Archer in context of long-running dispute concerning payment of royalties and the enforcement of rights under various production agreements in respect of Dirty Dancing the Musical (with Andrew Hunter QC).

## Advising an overseas regulator

Advising overseas regulator in the context of a high-profile investigation into a company and its directors following a failure to disclose price-sensitive information to the market (with Javan Herberg QC).

### **Financial Conduct Authority – Secondment – General Counsel’s Division**

3-month secondment, advising on a variety of financial services matters, including the FCA’s conduct of business rules, the FCA’s regulatory duties, and the domestic implementation of the Mortgage Credit Directive and Payment Services Directive. Jason has since been instructed by the FCA to assist in drafting various amendments to the FCA Handbook.

## **Media & Entertainment**

Jason practises in all aspects of media and entertainment law, with particular expertise in issues relating to broadcasting regulation, privacy and data protection. He regularly advises the BBC on a range of media and public law issues. He has particular expertise on issues relating to due impartiality, having acted in a number of leading cases in this area.

## **Cases**

### **Webber v ICO**

Representing the Ministry of Justice in an appeal against a decision of the Information Commissioner’s Office refusing access to information relating to compensation awarded to family members of Timothy Evans, who was hanged in 1950 for the murder of his baby daughter, but was given a posthumous royal pardon in 1966.

### **Newbery v BBC**

Representing the BBC defending its decision not to release certain information.

### **Shareholders v Single Resolution Board**

T-514/18

Representing a large group of Mexican shareholders challenging the decision of the Single Resolution Board to refuse access to a range of documents, requested pursuant to Regulation No. 1049/2001, involving its decision to take resolution action in respect of Banco Popular in 2017.

### **Acting for major art museum**

Representing a major art museum in the United States in relation to a dispute that has arisen in relation to a piece of art which is said to have been unlawfully obtained.

### **Advising BBC on media, regulatory and public law issues**

Jason is regularly instructed by the BBC, led and unled, to provide advice on media, regulatory and public law issues. This include issues arising under the BBC Charter, the Framework Agreement, the Broadcasting Code, the Communications Act 2003, and the Political Parties, Elections and Referendums Act 2000. He has also advised in respect of consultations, including the over-75 licence fee consultation.

**RT v Ofcom**

High Court

Representing RT in a challenge to Ofcom's decisions (i) finding that RT had breached its due impartiality obligations in respect of seven programmes relating primarily to the Syrian war and the Skripal poisoning; and (ii) imposing a fine of £200,000 pounds. RT alleges that the decisions are incompatible with Article 10 ECHR or, alternatively, that the due impartiality regime is itself incompatible with Article 10. The case was heard before a Divisional Court in late-2019 and judgment is pending.

**Izuzquiza v European Border and Coast Guard Agency**

Case T-31/18

Represented two journalists in a challenge to the European Border and Coast Guard Agency's decision to refuse to disclose information regarding border patrol ships, requested pursuant to Regulation No. 1049/2001. Appeared before the General Court unled.

**Keighley v BBC**

High Court

Represented the BBC in challenge brought by former BBC employee, Mr Keighley, challenging the framework that the BBC has in place to monitor compliance with its due impartiality obligations.

**Parliamentary privilege**

Advised a number of individuals on potential complaints and causes of action arising from statements made in Parliament, under the guise of parliamentary privilege. This has included advice on potential violations of Article 6, 8 and 13 ECHR.

## Data Protection, Freedom of Information & Privacy

Jason has considerable experience advising on issues relating to data protection, freedom of information and privacy. He is regularly instructed to advise on data protection and freedom of information issues under domestic law and EU law. He has experience in challenging and defending decisions to refuse disclosure under the Freedom of Information Act 2000 and, at the EU level, Regulation No. 1049/2001.

## Cases

**Webber v ICO**

Representing the Ministry of Justice in an appeal against a decision of the Information Commissioner's Office refusing access to information relating to compensation awarded to family members of Timothy Evans, who was hanged in 1950 for the murder of his baby daughter, but was given a posthumous royal pardon in 1966.

**Newbery v BBC**

Representing the BBC defending its decision not to release certain information.

## Shareholders v Single Resolution Board

T-514/18

Representing a large group of Mexican shareholders challenging the decision of the Single Resolution Board to refuse access to a range of documents, requested pursuant to Regulation No. 1049/2001, involving its decision to take resolution action in respect of Banco Popular in 2017.

## Izuzquiza v European Border and Coast Guard Agency

Case T-31/18

Represented two journalists in a challenge to the European Border and Coast Guard Agency's decision to refuse to disclose information regarding border patrol ships, requested pursuant to Regulation No. 1049/2001. Appeared before the General Court unled.

## Sanctions

Jason is recognised as a leading lawyer in sanctions-related work, and is highly sought after for his expertise in challenging and advising on EU and international asset-freezing sanctions. Chambers & Partners 2017 identifies him as the "leading junior in the field". In 2018 he was awarded the World ECR Young Sanctions Practitioner of the Year Award. He is currently representing more than twenty individuals and entities in over a dozen challenges to asset-freezing regimes before both the General Court of the EU and the Court of Justice. He recently appeared successfully in the General Court, unled, for Mr Andriy Klyuyev, the former head of the Presidential Administration of Ukraine.

Jason also regularly appears in sanctions-related challenges in domestic Courts, both in the UK and abroad. He recently completed a 10-day trial on Libyan sanctions-related issues in the Cayman Islands. Jason has particular experience with the sanctions regimes for Iran, Egypt, Syria, Ukraine, Libya and Russia, and regularly advises banks, corporates and individuals on compliance issues, including the implications of sanctions to commercial transactions. More recently he has advised on the implications of the Sanctions and Anti-Money Laundering Act 2018. Jason's sanctions-related work is complemented by his academic background in public international law.

***"He was delightful to deal with. Very intelligent, proactive and a great member of the team."***

— CHAMBERS AND PARTNERS, 2022

## Cases

### MODSAF v IMS

Representing the Iranian Ministry of Defence in dispute concerning the enforcement of two arbitration awards made following a dispute arising out of contracts for the supply of Chieftain tanks and armoured vehicles to Iran in the 1970s. The arbitrators held that the UK owed the principal sum of 140 million pounds to the Iranian Ministry of Defence pursuant to those contracts (later revised down to 127 million pounds). The sums have not yet been paid as a result of the imposition of EU sanctions. A number of disputes have arisen, including in relation to the payment of interest during the period in which the sanctions have operated (with Dinah Rose QC).



## UN, EU and domestic sanctions compliance advice

Jason regularly advises, led and unled, companies and individuals in relation to compliance with the EU and international sanctions regimes, particularly with regard to Iran, Libya, Egypt, Syria, Ukraine and Russia. This includes advice on the impact of sanctions on commercial transactions. More recently he has advised on the implications of the Sanctions and Anti-Money Laundering Act 2018. Much of this work is confidential, and cannot be listed here.

## Hosni Mubarak v Council

T-358/17

Representing the former president of Egypt in challenging the EU sanctions imposed on the basis of alleged crimes in Egypt, notwithstanding that the Egyptian courts have dismissed the allegations relating to him, and his single conviction, which is nevertheless spent, as well as their ongoing proceedings, is marred by flagrant violations of Articles 6 & 7 ECHR (with Brian Kennelly QC).

## Mubarak and Others v Council

T-275/16; T-335/18

Representing the sons of the former president of Egypt and their wives, in challenging the EU sanctions imposed on the basis of alleged crimes in Egypt, notwithstanding that no evidence has been supplied to the Council in relation to the wives, the Egyptian courts have dismissed the allegations related to the sons and their single conviction, which is nevertheless spent, as well as their ongoing proceedings, are marred by flagrant violations of Articles 6 & 7 ECHR (with Brian Kennelly QC).

## PIAM v Upper Brooks & ors

CICA Appeal No. 5 of 2019

Represented investment funds, owned by the Libyan Investment Authority, in 10-day trial, and subsequently a two-day appeal, in the Cayman Islands. The case raised a number of complex issues involving the interaction between the UN, EU, UK and Cayman sanctions regimes. The central issue was whether the dismissal of directors of the investment funds constituted a breach of those regimes (with Dinah Rose QC).

## Saleh Thabet v Council

T-246/16; T-338/19

Representing the wife of the former president of Egypt in challenging EU sanctions imposed on the basis of alleged crimes in Egypt, notwithstanding that no evidence has been supplied to the Council (with Brian Kennelly QC).

**National Iranian Tanker Company v Council**

T-207/15; T/207/15R; EU:T:2015:535; EU:T:2016:471; C-600/16 P

Representing the National Iranian Tanker Company before the General Court and Court of Justice in its application for interim relief and annulment in relation to its re-listing. The case concerns the reinstatement of sanctions on an entity in circumstances in which that entity has already won a legal challenge against a previous attempt to designate it, and the factual allegations against the Appellant have not changed. The issues before the Court raise fundamental questions about the need for effective remedies for unlawful action by the Council, and as to the proper limits on the Council's ability to engage in unfair and abusive re-designation and re-litigation. An appeal is currently pending before the Court of Justice (with Tom de la Mare QC and Maya Lester QC).

**A Klyuyev v Council**

T-340/14; T-731/15; T-240/16; EU:T:2015:706; EU:T:2016:496; EU:T:2018:433

Representing the former Chief of Staff of the former Ukrainian President in challenging EU sanctions alleging misappropriation and corruption, on the grounds of breach of human rights and lack of evidence. In 2018, Jason appeared unled in the General Court, and succeeded in obtaining the annulling the freezing of funds for Mr Klyuyev for the period March 2017-March 2018, on the basis that the Council had committed a manifest error of assessment in determining that there was a legitimate basis for listing him. Jason is currently acting for Mr Klyuyev in relation to his re-designation (with Brian Kennelly QC).

**S Klyuyev v Council**

T-341/14; T-731/15; EU:T:2016:47; EU:T:2018:90

Represented Mr Klyuyev, a former Ukrainian politician, in challenging EU sanctions on the basis of a lack of evidence. Mr Klyuyev succeeded in overturning his designation, and, following extensive representations to the Council, was de-listed in early 2018 (with Brian Kennelly QC).

**Ivanyushchenko v Council**

T-246/15; EU:T:2017:789

Represented Mr Ivanyushchenko, a prominent Ukrainian businessman and former politician, in his annulment application. The Court held that the Council had committed a manifest error of assessment in determining that there was a legitimate basis for listing him, and he was subsequently de-listed by the Council (with Brian Kennelly QC).

**Yanukovich v Council**

Advising the former President of Ukraine, Viktor Yanukovich, and his son, in challenging the EU restrictive measures imposed on them (with Shaheed Fatima QC).

**Klymenko v Council**

T-245/15

Represented a former Ukrainian Minister of Revenue and Duties in his challenge to EU sanctions, on the basis that the allegations made by the new administration are false and driven by the commercial interests of the new rulers in Ukraine (with Brian Kennelly QC).

**Ezz and others v Council**

T-288/15; EU:T:2018:619

Representing Mr Ezz and his wives before the General Court in this third application to unfreeze their assets (with Brian Kennelly QC).

**Ezz v Council**

C-220/14 P; EU:C:2015:147

Represented Mr Ezz and his wives in an appeal to the Court of Justice challenging a decision of the General Court refusing to annul restrictive measures freezing funds in the EU because of an alleged misappropriation of Egyptian State funds in connection with the Mubarak regime. The Ezz judgment is one of the leading cases in this area (with Brian Kennelly QC).

**National Iranian Tanker Company v SSHD**

[2015] EWHC 282 (Admin)

Represented the National Iranian Tanker Company in an urgent judicial review permission application, including an application for interim relief, relating to the SSHD's decision to vote in favour of the redesignation of NITC. Permission for judicial review granted (with Tom de la Mare QC).

**Kurchenko v Council**

T-399/14

Represented Mr Kurchenko in an application to annul restrictive measures freezing funds in the EU because of an alleged misappropriation of Ukrainian State funds in connection with the Yanukovich regime (with Brian Kennelly QC).

## Immigration

Jason has an extensive appellate immigration practice, and has appeared in many of the leading immigration cases in recent years, including several cases before the Supreme Court. He has a particular interest and expertise in cases raising issues regarding the interpretation of the 1951 Refugee Convention, and the interaction between domestic and public international law in the immigration context. Jason also regularly advises on private immigration and nationality matters.

Jason's practice is complemented by his academic experience. He is regarded as a leading academic authority on international refugee law, and in particular issues concerning child refugees. He is a Research Associate at the Refugee Studies Centre at the University of Oxford, and his monograph, *The Child in International Refugee Law* was published by Cambridge University Press in 2017. A full list of his research, teaching and publications in this area is set out under "achievements" below.

***"He is a meticulous barrister and is diligent in his work."***

— CHAMBERS AND PARTNERS, 2022

## Cases

### **Challenge to refugee pushback policy**

Acted for Freedom From Torture in challenge to the UK Government's refugee pushback policy on the basis that it was ultra vires, and incompatible with the 1951 Refugee Convention and Articles 3 and 4 ECHR. The Government withdrew the policy shortly before the hearing that was due to be heard before a Divisional Court in the week of 2 May, 2022.

### **Arbab v Secretary of State for the Home Department**

Representing Afghan national at risk of persecutory harm in Afghanistan on account of his political activity. The claimant was returned notwithstanding that risk, and is seeking an order compelling re-entry so that he can exercise his right to an in-country appeal.

### **R (Y & ors) v SSHD**

Representing a number of families in connection with involvement in scheme which provided a route to obtain Tier 1 (Investor) visas. The cases raise issues in relation to the Tier 1 (Investor) route, Article 8 ECHR, and Article 3 of the Convention on the Rights of the Child.

### **A v SSHD; O v SSHD; PRCBC v SSHD**

Representing a child claimant challenging the £1017 Home Office fee. That is charged to children to register as British citizens. The claimants allege that this has the effect of depriving children of a statutory right, is contrary to the child's best interests and infringes Article 8.

### **R (Bashir) v Secretary of State for the Home Department**

[2016] 1 WLR 4613 (High Court); [2017] EWCA Civ 397 (Court of Appeal); [2018] 3 WLR 573 (Supreme Court)

Representing six families of recognised refugees residing in the UK Sovereign Base Areas of Akrotiri and Dhekelia in Cyprus. They have been residing there since 1998. The claimants challenge the decision of the SSHD to refuse admission to the UK. The case raises a number of fundamental issues under public international law, including, in particular, whether the Refugee Convention applies to this British overseas territory. The claimants succeeded in the High Court, Court of Appeal and Supreme Court (with Raza Husain QC, Tom Hickman and Eddie Craven).

### **Kuczynski v SSHD**

Represented the claimant in this case challenging the UK's policy in relation to rough sleeping in the Upper Tribunal. The UK had passed a policy which suggests that rough sleeping in an of itself constitutes an "abuse of rights" for the purposes of Article 35 of the Citizens Rights Directive. This raised issues concerning free movement rights under the TFEU.

**MS v SSHD**

Representing the AIRE Centre which has intervened in the Supreme Court in this important appeal concerning (i) the extent to which decisions of the Competent Authority may be binding on a tribunal; and (ii) the scope of the protective and investigative duties under Article 4 ECHR.

**R (J) v Secretary of State for the Home Department**

Represented a number of unaccompanied minors challenging the significant and ongoing delay by the SSHD in determining the claimants' individual asylum claims, and the systemic delay by the SSHD in determining asylum claims of unaccompanied children more generally. Raises issues under domestic law, EU law and public international law (in particular, under the Convention on the Rights of the Child).

**SXH v Crown Prosecutions Service**

[2017] 1 WLR 1401

Represented UNHCR pro bono in the Supreme Court in this case which concerns the circumstances in which Art 8 ECHR will be engaged by a decision to prosecute a refugee for the use of false documents. The case has far-reaching implications for refugees entering the United Kingdom (with Raza Husain QC and Paul Luckhurst).

**ZAT and others v SSHD**

[2016] 1 WLR 4894

Represented the AIRE Centre in the Court of Appeal in this case which concerns the application of Art 8 ECHR to unaccompanied refugee children in the Calais "Jungle" (with Raza Husain QC).

**R (O) v Home Secretary**

[2016] 1 WLR 1717

Represented BID and Medical Justice in case concerning immigration detention of those with mental illness (with Michael Fordham QC).

**RA (a child by his litigation friend) and BF v Secretary of State for the Home Department**

Acted successfully for the Office of the Children's Commissioner before the Upper Tribunal and Court of Appeal in this challenge to the SSHD's refusal to return a 5-year old boy from Nigeria and his mentally ill mother on the basis that the SSHD did not adequately consider the child's best interests. SSHD ordered to return to the family (with Monica Carrs-Frisk QC and Kate Gallafent QC).

**JA (Nigeria) v Secretary of State for the Home Department**

Represented a mother and son in this important appeal before the Court of Appeal which concerns the proper approach to the definition of persecutory harm under the Refugee Convention in cases involving children. The child in this case is a 5-year albino boy, who would face widespread societal discrimination if returned to Nigeria, including a risk of ritual killing. The Secretary of State conceded the appeal before the hearing.

## Financial Services

Jason has particular expertise in the field of financial services regulation, and appears regularly for regulators, regulated bodies, banks and individuals across a broad spectrum of financial services matters. He has particular expertise in financial services matters raising public law and EU law issues. In 2013, Jason completed a 3-month secondment at the Financial Conduct Authority.

## Cases

### **Shareholders v Single Resolution Board and Commission**

Case T-510/17

Representing a large group of Mexican shareholders challenging the decisions of the Single Resolution Board and the European Commission to take resolution action in respect of Banco Popular in 2017. This action resulted in the sale of Banco Popular to Banco Santander for 1 euro. This is the first time that a resolution action of the Single Resolution Board has been challenged before the European Courts, and has been selected as one of four lead tests cases. The grounds of challenge include a failure to respect the shareholders' due process rights, property rights, and right to effective judicial review, and a failure to comply with the Meroni non-delegation principles.

### **SFO v Barclays**

Representing the SFO in various aspects of its Barclays/Qatar prosecution (with Sir James Eadie QC).

### **R (Baker Tilly) v Financial Reporting Council**

[2015] ACD 120 (High Court); [2017] EWCA Civ 406 (Court of Appeal)

Represented the FRC in this case which concerns a challenge brought by auditors to a decision of the Executive Counsel to the FRC to deliver a formal complaint against the claimants. The FRC was successful in the High Court and Court of Appeal (with Michael Fordham QC).

### **Advising an overseas regulator**

Advising overseas regulator in the context of a high-profile investigation into a company and its directors following a failure to disclose price-sensitive information to the market (with Javan Herberg QC).

### **Financial Conduct Authority – Secondment – General Counsel's Division**

3-month secondment, advising on a variety of financial services matters, including the FCA's conduct of business rules, the FCA's regulatory duties, and the domestic implementation of the Mortgage Credit Directive and Payment Services Directive. Jason has since been instructed by the FCA to assist in drafting various amendments to the FCA Handbook.

## Environment

Jason has a particular interest and expertise in environment cases, particularly in the context of judicial review. He has particular expertise in cases with an EU law dimension.

*“echnically very strong, commercially astute and a delight to work with, he is a go-to name for public law and environmental matters.”*

– LEGAL 500, 2022

## Cases

### **Banks Renewables Ltd v Secretary of State for Business Energy and Industry**

Representing a number of interveners in this judicial review challenge where the Claimant seeks to challenge the legality of the Secretary of State’s decision to exclude most generators of onshore wind energy from participation in the third allocation round auction for the award of Contracts for Difference (with Kieron Beal QC).

### **Marinet Ltd v Ministry of Defence**

Advised an environmental NGO in respect of a challenge to the decision of the Ministry of Defence to refuse to designate the Goodwin Sands as an archaeological site in light of the very large number of ships and planes that went down in this area during WWII. The issue has arisen as a result of a dredging application that has been made to build a port in Devon. The dredging will have detrimental impact on marine wildlife and the large number of ships, aircraft and crew lost at sea during WWII, during the Battle of Britain.

### **Drax Power Ltd and Infinis Energy Holdings Ltd v HM Treasury and HM Revenue & Customs**

[2016] 2 CMLR 33 (High Court); [2017] QB 1221 (Court of Appeal)

Represented Drax and Infinis in the High Court and Court of Appeal for renewable source energy generators in challenge to the withdrawal of tax relief with practical immediacy. It was alleged that the withdrawal violated applicable standards of EU law, including the principles of foreseeability and proportionality, and A1P1 ECHR. (with Michael Fordham QC).

### **Ineos Upstream Ltd v Persons Unknown**

[2017] EWHC 2945 (Ch)

Representing Ineos in application for interim injunction restraining persons unknown from a range of unlawful activity against fracking operators and their third party contractors. Ineos succeeded in obtaining the interim injunction before the High Court. The case raises issues relating to the scope of Articles 10 and 11 ECHR, the appropriateness of obtaining relief against persons unknown, the test for quia timet interim injunctions, and the scope of the various alleged torts/statutory offences. A Court of Appeal hearing is listed for early 2019.

### **IGas v Persons Unknown**

Represented IGas in application for interim injunction restraining persons unknown from a range of unlawful activity against fracking operators.



## ACHIEVEMENTS

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### Education

BA (University of Melbourne); LLM (University of Melbourne); BCL (Dist.) (Oxon) (Commonwealth Scholar); PhD (Cantab) (W.M. Tapp Scholar and Poynton Cambridge Australia Scholar)

### Prizes & Scholarships

- WorldECR's young practitioner of the year award (2018).
- Cambridge Yorke Prize for a PhD thesis of exceptional quality that makes a substantial contribution to its relevant field of legal knowledge.
- Hauser Global Fellowship (to attend New York University as a Hauser Visiting Doctoral Researcher).
- W.M. Tapp Studentship in Law (full funding to undertake PhD at Gonville and Caius College, University of Cambridge).
- Poynton Cambridge Australia Scholarship (full funding to undertake PhD at Gonville and Caius College, University of Cambridge).
- Commonwealth Scholarship (full funding to undertake BCL, University of Oxford).

### Publications

#### Books

The Child in International Refugee Law (Cambridge University Press, 2017), shortlisted for the triennial Inner Temple Book Prize (2018).

#### Book chapters

- "Article 10" in Philip Alston and John Tobin (eds.), *The UN Convention on the Rights of the Child: A Commentary* (Oxford University Press, 2018) (forthcoming).
- "Article 22" in Philip Alston and John Tobin (eds.), *The UN Convention on the Rights of the Child: A Commentary* (Oxford University Press, 2018) (forthcoming).
- "Treating like alike: The principle of non-discrimination as a tool to mandate the equal protection of refugees and beneficiaries of complementary protection" in James C. Hathaway (ed.), *Human Rights and Refugee Law* (Edward Elgar, 2014) (reprint).
- "A child rights framework for assessing the status of refugee children" in Satvinder Juss and Colin Harvey (eds.), *Contemporary Issues in Refugee Law* (Edward Elgar, 2013) 91 – 138.
- Co-author (with Guglielmo Verdirame), "The end of refugee camps" in Satvinder Juss (ed.), *Research Companion to Migration Laws Theory and Policy* (Ashgate, 2013) 471 – 488.

#### Articles

- "The best interests of the child principle as an independent source of protection" (2015) 64(2) *International Comparative Law Quarterly* 327
- Co-author (with Justice Anthony North and James C. Hathaway), "Roundtable on the Future of the Refugee Convention Supervision" *Journal of Refugee Studies* (2013) (forthcoming).
- Co-author (with Sarah Spencer CBE), "Equality for All? The Relationship between Immigration Status and the Allocation of Rights in the United Kingdom" (2012) 2 *European Human Rights Law Review* 160 – 175.

- Co-author (with James C. Hathaway), "Queer cases make bad law" (2012) 44(2) New York University Journal of International Law and Politics 315-389 [published as lead article in symposium, with responses from Sir Richard Buxton, Ryan Goodman, John Tobin, David Frank, Jenni Millbank, Deborah Anker, Sabi Ardalan and Guglielmo Verdirame].
- Co-author (with Michelle Foster), "A failed case of legal exceptionalism? Refugee status determination in Australia's 'excised' territories" (2011) 23(4) International Journal of Refugee Law 583 - 631.
- "Treating like alike: The principle of non-discrimination as a tool to mandate the equal protection of refugees and beneficiaries of complementary protection" (2010) 34(1) Melbourne University Law Review 181 - 229.
- Co-author (with Kate Purcell), "Refugee processing freeze: Unlawful and practically unsound" (2010) 35(2) Alternative Law Journal 60 - 61.
- "Keeping the cat out of the bag: The interaction between litigation privilege and the service of witness statements" (2010) 29 Civil Justice Quarterly 48 - 72.
- "The service of witness statements and litigation privilege: ACCC v Cadbury" (2009) 13 The International Journal of Evidence and Proof 335 - 341.
- "Medically mediated reproduction: Posthumous conception and the best interests of the child" (2007) 15 Journal of Law and Medicine 450 - 468.

## Research & Teaching

Jason has undertaken postgraduate study at the University of Melbourne, University of Oxford, University of Cambridge and New York University. He received his doctorate from the University of Cambridge for his thesis, "The Child In International Refugee Law". His research has focused principally on public international law, public law and human rights, and international refugee law, and he has taught in these areas at the University of Cambridge, the University of Oxford, the University of London and New York University.

In 2010 Jason founded the Cambridge Pro Bono Project, which has, since its establishment, facilitated the involvement of hundreds of postgraduate students in various pro bono projects.

In 2011 Jason was a Visiting Fellow at New York University working under the supervision of Professor Philip Alston, where he was also involved in supervising students undertaking the International Human Rights Fellowship. In 2010 Jason was a Research Associate at Makerere University in Kampala, where he undertook research on unaccompanied refugee children, predominately from the Democratic Republic of the Congo.

Jason is presently a Research Associate at the Refugee Studies Centre at the University of Oxford.

Jason is regularly invited to speak and present at conferences and workshops both domestically and overseas, particularly on issues relating to human rights and international refugee law. He has recently delivered lectures in London, Oxford, Cambridge, Lund, Stockholm, Geneva and Boston. He has acted as a consultant to the Centre of Migration, Policy and Society at the University of Oxford, and the Diana, Princess of Wales Memorial Fund.

Jason is a trustee of the AIRE Centre.

## Memberships

- Administrative Law Bar Association
- Human Rights Lawyers Association
- Bar European Group
- Immigration Law Practitioners Association

- Commercial Bar Association
- Employment Lawyers Association
- Employment Law Bar Association
- British Institute of International and Comparative Law
- International Law Association
- European Society of International Law
- American Society of International Law

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